



Reprinted
February 25, 2009

HOUSE BILL No. 1106

DIGEST OF HB 1106 (Updated February 24, 2009 6:01 pm - DI 84)

Citations Affected: IC 24-5.

Synopsis: Resale or donation of certain items with lead paint. Prohibits a person from selling, reselling, distributing, or donating toys or child care articles that have been recalled because of federal lead paint limits. Requires a retailer or distributor to remove a recalled product from availability for purchase or distribution from the retailer or distributor not later than 24 hours after being notified of the recall because of lead paint. Subjects a violator to the same penalties and actions as a person who commits a deceptive act. Provides an affirmative defense for consignment shops and resale stores.

Effective: July 1, 2009.

Tincher, Noe

January 8, 2009, read first time and referred to Committee on Family, Children and Human Affairs.
February 19, 2009, amended, reported — Do Pass.
February 24, 2009, read second time, amended, ordered engrossed.

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HB 1106—LS 7199/DI 14+



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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1106

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-26 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2009]:
- 4 **Chapter 26. Removal of Recalled Products**
- 5 **Sec. 1. As used in this chapter, "child care article" means a**
- 6 **product designed or intended by the manufacturer to:**
- 7 **(1) facilitate the sleep, relaxation, or feeding of a child; or**
- 8 **(2) help a child with sucking or teething.**
- 9 **Sec. 2. As used in this chapter, "recalled product" means a toy**
- 10 **or child care article that has been recalled from sale:**
- 11 **(1) by the order of a court or a regulatory body; or**
- 12 **(2) voluntarily by the manufacturer, distributor, or retailer;**
- 13 **because of lead paint limits set forth in 15 U.S.C. 1278a(a)(2).**
- 14 **Sec. 3. As used in this chapter, "toy" means an article designed**
- 15 **and made for the amusement of a child or for the child's use in**
- 16 **play.**
- 17 **Sec. 4. (a) A retailer or distributor may not sell, resell,**

HB 1106—LS 7199/DI 14+



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1 distribute, or donate a recalled product.

2 (b) A person shall remove a recalled product from availability
3 for purchase or distribution from the retailer or distributor not
4 later than twenty-four (24) hours after receiving notification from
5 a:

6 (1) court;

7 (2) regulatory body; or

8 (3) manufacturer, distributor, or retailer, if the recall was
9 voluntary;

10 that the product is a recalled product.

11 Sec. 5. (a) A retailer or distributor that:

12 (1) sells, resells, distributes, or donates a recalled product; or

13 (2) fails to remove a recalled product from availability for
14 purchase or distribution from the retailer or distributor;

15 not later than twenty-four (24) hours after receiving notification
16 that the product is a recalled product, as required by section 2 of
17 this chapter is subject to the same penalties and actions that a
18 person who commits a deceptive act is subject to under IC 24-5-0.5.

19 (b) A consignment or resale store shall make a reasonable effort
20 to determine if any product the consignment or resale store has for
21 sale is a recalled product.

22 (c) It is a defense to an action brought under subsection (a) for
23 a consignment or resale store if there is no identifying information
24 or packaging on a recalled product.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "chapter," insert **"child care article" means a product designed or intended by the manufacturer to:**

- (1) facilitate the sleep, relaxation, or feeding of a child; or**
- (2) help a child with sucking or teething.**

Sec. 2. As used in this chapter,"

Page 1, line 6, delete "product" and insert **"toy or child care article"**.

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "toy" means an article designed and made for the amusement of a child or for the child's use in play."

Page 1, line 10, delete "2." and insert **"4."**

Page 1, line 10, after "retailer" insert **"or distributor"**.

Page 1, line 10, after "resell" insert **"distribute,"**

Page 1, line 13, after "purchase" insert **"or distribution"**.

Page 1, line 13, after "retailer" insert **"or distributor"**.

Page 2, line 3, delete "3." and insert **"5. (a)"**.

Page 2, line 3, after "retailer" insert **"or distributor"**.

Page 2, line 4, after "resells" insert **"distributes,"**

Page 2, line 6, after "purchase" insert **"or distribution"**.

Page 2, line 6, after "retailer" insert **"or distributor;**

not later than twenty-four (24) hours after receiving notification that the product is a recalled product, as required by section 2 of this chapter is subject to the same penalties and actions that a person who commits a deceptive act is subject to under IC 24-5-0.5.

(b) A consignment or resale store shall make a reasonable effort to determine if any product the consignment or resale store has for sale is a recalled product.

(c) It is a defense to an action brought under subsection (a) for a consignment or resale store if there is no identifying information or packaging on a recalled product."

Page 2, line 6, delete "not later than twenty-four (24)".

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Page 2, delete lines 7 through 10.

and when so amended that said bill do pass.

(Reference is to HB 1106 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1106 be amended to read as follows:

Page 1, line 13, delete "paint." and insert "**paint limits set forth in 15 U.S.C. 1278a(a)(2).**".

(Reference is to HB 1106 as printed February 20, 2009.)

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